

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of 2000 Biennial)	
Regulatory Review --)	
Comprehensive Review of the)	CC Docket No. 00-199
Accounting Requirements and)	
ARMIS Reporting Requirements)	
for Incumbent Local Exchange)	
Carriers: Phase 2 and Phase 3))	

COMMENTS OF THE WYOMING PUBLIC SERVICE COMMISSION ON THE NOTICE OF
PROPOSED RULEMAKING (PHASE 2)

The Wyoming Public Service Commission (WPSC) hereby submits its comments regarding the Notice of Proposed Rulemaking (NPRM) on Phase 2 Streamlining Procedures. The WPSC is the agency of the State of Wyoming which has jurisdiction to regulate, *inter alia*, the intrastate activities of telecommunications companies serving in Wyoming. As such the WPSC is an interested party in this proceeding.

In its NPRM the Federal Communications Commission (Commission) seeks comment on whether and how to streamline significantly the existing accounting and reporting requirements. The Commission offers an extensive series of specific proposals to: eliminate numerous Class A accounts in Part 32, which comprises the Uniform System of Accounts for larger local exchange carriers; change Class A to Class B accounting requirements; eliminate inventory requirements; modify expense limit rules; eliminate cost allocation manual filing requirements for mid-sized carriers; simplify certain reporting requirements as found in the Automated Reporting and Management Information System (ARMIS) and make other specific accounting and reporting changes. It is not our intent in filing these comments to respond to each and every proposal. Rather, we offer our perspective of key accounting and reporting elements that should remain in place as the telecommunications industry moves from a regulated, monopoly entity to a competitive and then unregulated entity, noting that we are not yet immersed in an effectively competitive market.

While the WPSC does not object to many of the proposals contained with the NPRM, specifically the proposals to *reduce and streamline* regulation, we are concerned about proposals that are premised on the concept that telecommunications carriers should only keep records that are needed for their business purposes. What about the purposes and mandates of the regulators, given that these are regulated entities? While regulation has been reduced and even changed from past practices, in only a few instances has regulation been eliminated. Thus, regulatory reporting and accounting should recognize the continuing, and changing, needs of regulators, and should not be

driven by the desire of telecommunications providers. The Commission should focus on some of the key questions that it has posed within the NPRM that make this point. Focus on your own request wherein you seek comment on “whether eliminating these accounts would undermine our ability to meet our statutory mission” and “how that would affect our ongoing mission.” Only as it relates to this first question, should the Commission then ask about the burden of the accounting and reporting on carriers and the impact of the proposed changes on competition. These secondary questions alone should not drive the Commission’s decisions. The best of all worlds is where a balance of all of these interests can be achieved but we know that views are often too divergent for this to be possible.

As to the specific proposals to eliminate certain accounts from Part 32, the WPSC’s primary concern is that a reasonable degree of consistency of data, verifiable data, and accessible data be maintained, as it is used in the computations of the federal universal service fund. For instance, it is our belief that some of the maintenance expense factors that are inputs into the hybrid universal service model are based on actual booked numbers. Without the consistency of the data that is accomplished via Part 32, we are concerned that some companies may choose to use the recording of expenses as an opportunity to further other corporate objectives. Perhaps they would want to book more or less expense in a particular year or perhaps more or less maintenance would be capitalized than in the past. Similar examples can be given for other accounts, and the NPRM itself lists a similar issue relative to switching costs. Many have stated that the numbers would still need to be “pure”, given that they are audited by outside audit firms, but we have found, over the years, that independent auditors have allowed their clients a great deal of discretion while still offering clients clean opinions. We do not believe that the presence of outside auditors provides any comfort, in and of itself, regarding the consistency of data.

The proposal to let incumbent local exchange providers move from the detailed inventory requirements in the existing rules to inventories based on the companies’ own risk assessment is also of concern to us. Recent experience of the Commission shows that the company’s inventory records are often of low priority and may be significantly out-of-date. While there was a great deal of controversy about the end results of the FCC’s recent inventory and property records audits, it is clear, regardless of the position taken on the actual adjustments and whether they were justified, that there were problems with the Bell Operating Companies’ record keeping. Yet, these records form the basis for the numbers that are reported to both state and federal regulators, and are used to measure things such as over or under earnings, revenue sharing, average loop (or investment) cost for universal service fund computations, and starting points for sale of exchange negotiations. If the accuracy of these records is in doubt, the work of the regulator would also be legitimately questioned. We are also concerned that left on their own, that inventory control and record keeping will become a lower priority than it is now, given the downsizing and corporate restructuring that is currently underway.

The WPSC also raises cross-subsidy questions regarding the proposal to allow carriers the flexibility to use the higher or lower of cost or market valuation as either a floor or a ceiling. Specifically, the NPRM gives the following example:

Therefore, if a carrier purchases an asset from one of its nonregulated affiliates with a net book cost of \$750,000 and a fair market value of \$1,000,000 (and no tariff rate or prevailing price), our current rules would require the carrier to book the asset at \$750,000, which is the lower of cost or market. Our proposed rule, on the other hand, would allow the carrier to record the asset at a maximum of \$750,000.

Our concerns go to the anticompetitive effects that could ensue from this example. Under traditional regulation, the asset would be recorded at \$750,000, increasing rate base by that level. Customers receive the benefit by only recognizing a \$750,000 asset that is worth much more. And, competitors could view the transaction in a way such that if the asset had always been held by the regulated entity, instead of coming through the nonregulated entity, the amount in rate base would be the same -- net book value. However, under the proposed rule, the rate base could reflect an increase as small as \$1, and thus allowing the regulated entity to provide service with a \$1 million asset at not cost — passing that savings on to customers in a way that the competitor cannot meet. While industry may argue that this is clearly in the customers benefit, we disagree. Both national and Wyoming state policy has determined that long term effective competition is the form of public benefits that should be embraced. In this example, competition would be negatively impacted, in violation of stated public policy. This is a blatant example of cross-subsidization at its worst.

A significant portion of the NPRM is devoted to proposed changes to the ARMIS reporting. Again, the WPSC does not intend to respond to each and every proposal, but does intend to highlight the most useful aspects of the current ARMIS reports, with the request that these reports remain in place. In a few selected instances, we believe there are reasons to expand some of the reports (e.g., Quality of Service). Otherwise, we agree that the NPRM appropriately points out many places where the reporting can, and should, be simplified, in order to eliminate duplicate information and unnecessary or obsolete details.

Quality of service is becoming one of the top priorities of both federal and state regulators and thus, should be a focus of reporting by the telecommunications industry. We ask that carriers not be exempted from the requirement to file the Quality of Service reports and that the revenue threshold for filing these reports not be set at such a high limit as to effectively exempt the mid-sized carriers from reporting. These reports are used in a variety of ways, including two recent cases that required the approval of both federal and state regulators. In the first, MCI Worldcom and Sprint Corporation were proposing to merge. When a significant transaction such as this occurs, it is important to see what the impact on local service is likely to be — especially since Sprint has local service customers in Wyoming. The reported quality of service, as well as internally trackable events, can form a baseline to see what changes are occurring in service standards after the merger. In the second, Citizens Utilities has proposed to purchase five rural exchanges currently served by Qwest. Since Citizens is not an entity that currently has service in Wyoming, we used ARMIS, as well as other publicly available sources of information, to examine Citizens' track record in the states that they do currently serve. This information then becomes part of the mix wherein regulators determine if the sale is in the public interest or will be detrimental to service to customers.

The WPSC is also concerned about the proposals to limit or eliminate the ARMIS forms that

currently have carriers reporting billable access lines and per minute traffic data. While we agree that it is only necessary to report this data on one form, and not repeatedly on a variety of forms, it is not clear from the NPRM that this is all that is being proposed. For example, for some of the mid-sized carriers (which we should all remember serve millions of access lines throughout the United States), there is a proposal to eliminate certain forms at the same time that the larger carriers are proposing to capture the data on Form X rather than Form Y. We urge caution that the combination of these proposals does not eliminate the very useful traffic and line count data all together. The WPSC recently had occasion to use some of the traffic and line count data as it analyzed the impact of the most recent federal universal service fund proposals that are pending before the Commission. As to the question of whether there are other public sources for this data, we believe not — at least not in the same usable and publically accessible form. While some information is contained within the Summary Handbook of Common Carrier Statistics, and some contained within NECA documents, it often takes a combination of all of these sources, including ARMIS, to find all of the desired data for proper regulatory analysis.

Finally, the NPRM raises questions about the need for, or desire of, broadband data gathering, either in this proceeding or another. We do support many of the proposals listed in the NPRM in this regard, especially the concepts that focus on splitting data between Metropolitan Statistical Areas (MSAs) and non-MSAs. However, we believe that there may be some data that should be collected that has not yet been the focus of the Commission's attention. Specifically, we think that there should be a reporting of the number of customers who are able to be served with the current broadband technologies. This should go beyond the reporting of the miles and type of transmission facilities. This should focus on the number of loops that are still loaded, or the number of customers who live beyond the maximum 12,000 or 15,000 feet allowed by these current technologies. This data will then tell the story of whether the Digital Divide continues to exist.

In summary, the WPSC appreciates the extremely detailed review that has been done by the FCC and its staff in the development of the NPRM. We also appreciate the inclusion of state regulators in the early stages of the review process and the spirit of cooperation between federal regulators, state regulators, and industry that has been shown thus far in this proceeding. We simply urge caution to recognize that the local telecommunications market is not yet a competitive market, and thus, the need for regulatory oversight continues. We believe that much of the regulatory oversight that is occurring, at both the federal and state level, is now focused on universal service support and quality of service. Therefore, any modifications that are adopted to accounting and reporting requirements (requirements commonly used by both federal and state regulators) should reflect this current focus.

We appreciate the opportunity to comment on this important matter.

Respectfully submitted this 21st day of December, 2000.

Sincerely,

STEVE ELLENBECKER Chairman	KRISTIN LEE Commissioner
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